



## Lamoine Board of Selectmen Minutes of February 16, 2006

Chairman Jo Cooper called the meeting to order at 7:02 PM

Present were: Selectmen Brett Jones, Richard Fennelly Jr., S. Josephine Cooper, Perry Fowler, Cynthia Donaldson; Administrative Assistant Stu Marckoon, Michael Garrett (Planning Board Secretary), Kathleen DeFusco (Assistant Town Clerk), Dennis Ford (Code Enforcement Officer, Road Commissioner), Gerald Ford (Harbor Master), Stuart Branch (Planning Board Chair), and Lilly Cooper.

**Agenda Review** – There were no changes or additions to the agenda

**Minutes** – Richard said he had written some substantive changes to the minutes to clarify some statements regarding the discussion on an open vs. referendum town meeting. Jo moved to approve the minutes with the changes. Richard 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Foreclosed Property Disposition** – Stu said there is a willing buyer who has signed an installment purchase agreement. He said he would recommend that the board approve the sale. Richard noted title is retained by the town until all payments are made. He asked what happens if the buyer decides not to pay. Stu said non-payment is spelled out pretty clearly in the agreement. Jo moved to approve the installment agreement with Wesley Bentivoglio. Brett 2<sup>nd</sup>. **Vote in favor was 5-0.**

Stuart Branch asked whether properties are put up for sale so everyone knows. Stu answered that generally they are, but first refusal is given to the former owner. He said in this case where the trailer is located on another person's land, the 2<sup>nd</sup> refusal went to the landowner. Had they not wanted to buy, then it would have been put up publicly.

Cynthia asked about liability insurance. Stu said the town is covered so long as the insurance carrier (MMA) is notified, and he has done so. He said the installment agreement makes the purchaser responsible for insurance.

**Inquiry re: Stump Grinding by M. Garrett** – Mr. Garrett said the Selectmen had received a copy of a letter from him. He said in July 2003 the Planning Board approved the stump grinding operation by Doug Gott & Sons with conditions. He said the discussion centered around leaching and noise. He said one of the conditions was a decibel test on the grinder. Stu said the grinder apparently has never been there.

Mr. Garrett there was a mountain of stumps being stored on the property, but no evidence of grinding. He said another condition on the permit was to grind the stumps every two to four months. He said he wondered what the impact was on the aquifer.

Richard asked if the asphalt pad was supposed to be constructed before grinding. Mr. Garrett said yes. Richard said there would not appear to be any violation until grinding begins. He said if they were grinding without a pad, that would be a violation. He said if there is no grinding, then there is no violation.

Planning Board Chair Stuart Branch said he couldn't recall if the pad was part of the condition to be done. Mr. Garrett read the condition about the pad. He said S.W. Cole did a water study on the area where the stumps were to be stored. Perry said there was a map somewhere. Mr. Garrett said that should be part of the investigation. He said the effort tonight was to find out if there is enough evidence to warrant an investigation. Richard said it would seem there is no violation for not installing a pad because no grinding has occurred. Jo asked if a permit was needed for stump storage. She asked if there was a permit needed to store stumps in a gravel pit. Perry said the possible violation would be for the stump storage.

Jo asked if the water testing was done. Mr. Garrett said he recalled there was some vandalism to three wells, and there was agreement that one well should be tested. Jo said the town granted the permit in good faith, and if there is supposed to be a water testing program, where are the test results. Cynthia noted there is a letter signed by Tim Gott saying that's what they were going to do.

Jo said she thinks there is an obvious violation, and the town needs to give notice. Mr. Garrett said he asked the Selectmen to investigate. He said he thinks CEO Ford should investigate where the stumps are stored, compared to where the map says they should be stored. CEO Ford asked whether this is a gravel pit or a reclaimed pit or a gravel area. Perry said he didn't think that area was ever mined. CEO Ford said the operation has not yet started. Jo said he shouldn't be storing stumps there. CEO Ford said he could put stumps there if it's not a gravel pit.

Mr. Garrett said he was flabbergasted at the wall of stumps piled there. Perry asked if they had grubbed that area and the stumps were from that. Mr. Garrett said it was not. He said Mr. Gott said they would store stumps there for 2-to-4 months then bring the grinder up from Bar Harbor to clean it up.

Jo said the Board should at least ask Dennis to have a look. Brett said even if it's not in a pit, there is an agreement that storage would be cleaned every two-to-four months. Jo said that's part of the permit and the CEO needs to look and if it's so, he should issue the notice of violation.

Richard asked how long this had been going on. Mr. Garrett said he thinks they've been adding stumps all along. He said the key is to get the stumps ground and not sitting on the aquifer. Mr. Branch said if the area under the stumps was supposed to be an asphalt pad, it needs to be put down. Brett and Richard said only the area for grinding was to be an asphalt pad. Selectmen looked at the site plan map.

Mr. Branch said he thought the concern was about leaching into the ground. Mr. Garrett said the plan referred to the stumps being stored in cribs. A short discussion followed about the map. Stu said if this has become a stump dump, it might require some DEP action. Jo said there might be a change of operation in place here. She asked how the town can have a check and balance on this, if they were supposed to send water test results to the town and they have not.

Brett said he could write a software application that would give reminders on what to check for on permit issuances. Richard said it would be fair to ask to delineate where the storage site is supposed to be. He said the plan isn't clear about how big it is supposed to be. Cynthia said Mr. Gott wrote about storage cells. A short discussion followed.

Brett said a list of questions for CEO Ford to ask might help. Jo said CEO Ford needs to look at the situation and determine if there has been a violation. Mr. Garrett said the stump pile could far exceed what S.W. Cole had outlined. Brett asked how big an area is there. Mr. Garrett said it reminded him of logging operations in Millinocket. Richard asked if it was greater than 200-feet. Mr. Garrett said he would guess the answer to that is yes. Richard said the berm is supposed to be 10-feet high. Mr. Garrett said he did not pass by the central part of the area.

Jo said she thinks the issue is to have the CEO take a look and follow the established enforcement steps, and that is CEO Ford's responsibility. CEO Ford said he has to determine if there is a violation. He said he's been going through the file and will find out the state regulations on stump storage and to get hold of Mr. Gott to take him to the scene. Jo asked if there was anything else CEO Ford needed. He replied he just needed time to get things lined up and talk with Mr. Gott. Jo said it would be good to talk with Mr. Gott and get input on his intents. She said it's pretty clear what is on the permit. She said the aquifer threat is what the concern was at the beginning. She asked if the Board could plan on hearing from CEO Ford at its next meeting. Mr. Ford said probably not, as it's next Thursday, but probably the one after that.

Cynthia asked if any tests have come into the town hall. She said Stu had said he'd never seen any. Richard said it doesn't appear any have been submitted. Dennis said they might have been tagged onto the gravel pit tests, and he would look.

**Road Posting Order** – Jo asked if the Road Commissioner has to wait for Selectman action. She said the weather has been weird and the Road Commissioner should be able to post the roads when needed. Road Commissioner Dennis Ford said the town doesn't post the roads like it used to. He said it might work to have the Selectmen proclaim that the town would post the roads when the state does. A short discussion followed. Stu got the ordinance book and read the pertinent section. Richard suggested that a blanket order giving the Road Commissioner authority from the Selectmen could be signed on an annual basis.

Jo moved to approve the order before the Selectmen and in the future to give the road commissioner more flexibility on posting the roads. Richard 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Town Meeting Matters – LD-1 Override Question** – Jo said her concern is that the Board be as clear as possible about the issue and not be perceived as trying to put something over on the voters. Stu said he prepared a six-slide power point presentation on the question. Jo said a letter that Richard had drafted is quite wordy. Richard said his concern was heightened by a posting on the Lamoine Informer website. He said he thinks a serious question was raised that the Selectmen were trying to slip one over on the town by presenting a budget and then at the end presenting the override article. He said it troubles him that anyone thinks the Selectmen were trying to play a game. Brett said the warrant has always been structured in this manner. Richard said the people at town meeting vote to authorize the budget, and yet there are some who think that the Selectmen are independently authorizing the town budget.

Jo said Richard's point in his letter is that while the cost of living is going up, the town would never be allowed to increase its budget. Richard said the town is on a fixed municipal budget, and the purchasing power of the town would go down by the rate of inflation each year. Cynthia said the surplus analogy explanation presentation was helpful. Richard said the town can use its surplus for only so long.

Jo said the power-point presentation explains why \$0 was raised for property taxes in 2004. Brett said there seems to be some misconceptions about the amount of local government spending. He said there is not a lot of wild discretionary spending in the municipal budget. Richard said the board manages about 23% of the total budget, and that's raised by the town meeting. He said people need to understand if the municipal portion of the budget is frozen, services would be adversely affected, such as road maintenance, plowing, and paving. Perry noted plowing is about 20% of the municipal budget. A short discussion followed on costs of municipal services.

Jo said the power-point presentation looked good. Stu said it would reach the people that are making the decision. He said a letter mailed by the Selectmen would be perceived as political. A short discussion followed on ways to reach people, including putting the issue on TV, the web-site, and a letter to the editor.

Richard said he wanted to discuss attendance figures at the open town meeting. Cynthia said the Selectmen could go through the power point presentation at the next meeting.

**Open vs. Referendum Meeting** – Jo said she understands that Richard would like to see a written vote on expenditures over \$20,000. Richard said many people tell him that they would prefer not to sit for hours at the open town meeting, but would vote by referendum. He said it's most important to him to get the most people to vote. He said the average attendance at the open town meeting is 91-people, who end up making decisions for over 1,800 people. He said if there is something to do to make a difference on the bigger ticket items, that would be important.

Brett asked if Richard meant any expenditure over \$20,000. Richard explained that it would be major maintenance and capital expenditures, not normal budgets decided as

usual at the open town meeting. He said the long-range survey showed people favored a Selectman form of government instead of a council form. He said it's important to get more people to vote on big ticket items. He said the only way he knows how to do that is to split the way of voting. He said that wouldn't happen very often.

Jo said the average is misleading, but she sees a trend, and it's skewed by presidential elections. Richard said he took those out. She said some special town meetings on boring items bring the average down. A discussion followed on the attendance numbers at recent meetings.

Jo said a change such as Richard proposed would have to go to town meeting. Cynthia asked about the number of registered voters. Stu said realistically about 1,000. Jo said Richard's intention is excellent as everyone wants as many to have a voice as possible. She said she takes voting seriously, and sometimes the questions in the voting booth are difficult to understand, and there is no chance to ask any questions. Richard said he wouldn't presume to make a determination that someone who's not as well informed as they should be should not vote at referendum because they don't have the same information they could get at open town meeting. He said everyone should have an opportunity to vote. Brett said it's an issue of free will. He said one needs to look at ways of accommodating the vote. A short discussion followed on incentives for town meeting, reasons to discourage a referendum vote, and timing of town meeting.

Jo said she's not sure the reason people don't want to go to open town meeting doesn't mean they don't have the opportunity to go to town meeting. Richard said he hears comments that people don't want to go to town meeting and put themselves through that, and that they'd much rather go to town hall and vote. He said the survey showed people prefer an open town meeting format. He said he's trying to find a blend to get the most votes, therefore the suggestion about putting major expenses to referendum. He said if people get to vote on big ticket items by referendum, then that would diffuse criticism.

Cynthia said the discussion seems to be how to engage people in a town meeting format. She suggested celebrating some accomplishments in town at the annual meeting.

Richard said for him the open town meeting has been a pain in the neck. He said his mind is made up when he goes to town meeting and nothing he hears changes it. Jo said Richard is a good listener, and a brief discussion followed.

Stu said the Selectmen already have the ability to set the format at town meeting under state law, and suggested that the board not limit that ability. Another discussion followed about the timing of town meeting.

**Joint Fuel Purchase** – Stu said he's not sure a statewide fuel purchase is the best option, as there are just a couple of companies with facilities statewide. Cynthia said the communication from Maine Power Options appears to be an information gathering effort. Stu said he would be glad to supply the information requested. Selectmen said that would be OK.

**Simons-Rohner Dispute** – Stu said the pins were apparently placed according to Mr. Simons' attorney. He said a letter from the town attorney suggested that the CEO look at the pins. CEO Ford said he and Planning Board Chair Branch plan to do that soon. Stu asked if it looked like there was room to shift the road north, away from Ms. Rohner's home. CEO Ford said it looks that could be the case.

**Road Name** – Perry moved to approve the name "Cardinal Drive" for a road off Mud Creek Road. Jo 2<sup>nd</sup>. **Vote in favor was 5-0.**

**Expenditure Warrant 16** – Selectmen signed expenditure warrant # 16 for \$110,827.33. Perry asked about the bill from the town attorney. Stu said it was for the Rohner/Simons matter. Jo inspected the bill. A short discussion followed on the number of building permits being issued.

**Cash & Budget Report** – Stu reported he moved \$80,000 from investments to the checking account to cover the warrant.

**Uncollectible Demo Debris Write-Off** – Stu reported Maureen McGreevey who had an account due for bulky waste disposal had moved and there is no forwarding address. Jo moved to write off the account as uncollectible. Cynthia 2<sup>nd</sup>. Richard noted that the amount was just under \$40. **Vote in favor was 5-0.**

**Checking Account Review** – Selectmen signed the statement expressing satisfaction with review of the Checking Account Reconciliation.

**State Check Order** – Jo moved to approve an order to move money from uncashed checks back into the town coffers. Brett 2<sup>nd</sup>. Stu noted the amount was about \$80.

**Bangor Hydro Tree Trimming** – Cynthia said she was not up to speed about the notice that Bangor Hydro sends about tree trimming. She asked if the town ever held a hearing on it. Perry and Stu said there has never been one. Richard noted that people can request that Bangor Hydro not cut their trees, but if there is a problem, the landowner pays for repairs to the power lines.

**NIMS Training** – Stu reported there would be training for the National Incident Management System on March 1<sup>st</sup> at Ellsworth City Hall. He said he plans to attend and asked any Selectman who could attend to get back to him on it. Richard provided a certificate of course completion to Stu for having completed the NIMS training.

**Other** – LD-1772 – Cynthia said she's been involved in testifying against LD 1772, a Department of Education bill which, among other changes, would move special education services for children birth to 5 under the aegis of the public schools. Brett asked what the purpose of the bill was. Cynthia said it was to deal with services for children with special needs. She said it was not well thought through and that the Department of Education has no indefinitely postponed the transfer of responsibility and

instead suggested a commission to study the provision of “early childhood special education” for eligible children from birth to age eight.

Homestead Exemption – Richard asked how much was lost by the town through adjustments to the homestead exemption. Stu said there was no loss, but the taxpayers ended up picking up about \$21,000 through the tax commitment process because only half was reimbursed by the state.

**Next Meeting** – The next planned meeting for the Board of Selectmen is February 23<sup>rd</sup>. Selectmen received their packets at this meeting.

There being no further business, the meeting adjourned at 8:50 PM

Respectfully submitted,

Stu Marckoon, Administrative Assistant